

Patent
Serial No. 10/813,955
Reply to Notice of Improper Request For Continued Examination of July 2, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket: FT04988

JONATHAN LEE ORWANT ET AL.

CONF. NO.: 5873

Serial No. 10/813,955

Examiner: ANDREW WENDELL

Filed: MARCH 31, 2004

Group Art Unit: 2618

TITLE: METHOD AND APPARATUS FOR CREATING, DIRECTING, STORING AND AUTOMATICALLY DELIVERING A MESSAGE TO AN INTENDED RECIPIENT UPON ARRIVAL OF A SPECIFIED MOBILE OBJECT AT A DESIGNATED LOCATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION

Sir:

In response to the Notice of Improper Request For Continued Examination of July 2, 2009, please consider the remarks as follows:

REMARKS/ARGUMENTS

This Reply is being filed in response to the Notice of Improper Request For Continued Examination of July 2, 2009.

Consideration of the Request For Continued Examination (RCE) submitted on June 29, 2009 as complete and proper is respectfully requested in view of the remarks to follow.

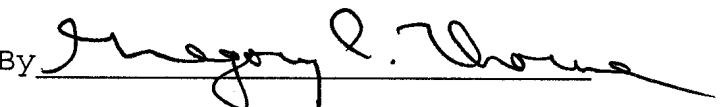
Included herewith is a copy of the Notice of Improper Request For Continued Examination of July 2, 2009 and an eight hundred and ten dollar (\$810.00) fee due for the RCE, paid through EFS.

However, in the event that any additional fees or charges are required for the RCE to be complete and proper, they may be charged to Applicant's representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying Reply to Deposit Account No. 50-3649.

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Based on the foregoing, the Applicants respectfully submit that the RCE is complete and proper and consideration of the RCE and previously submitted amendment is respectfully requested.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
July 16, 2009

Attachments: Notice of Improper Request For Continued Examination of July 2, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,955	03/31/2004	Jonathan Lee Orwant	528401-7	5873
7590	07/02/2009		EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 Fifth Avenue, Suite 1210 New York, NY 10176			ART UNIT	PAPER NUMBER

DATE MAILED: 07/02/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)	Application No. 10/813,955	Applicant(s) ORWANT ET AL.
	Art Unit 2600	Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 29 June, 2009 is improper for reason(s) indicated below:

1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

WANDA LAWSON, Technology Center 2600

Telephone Number: (571)272-7266